

**SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES  
MARCH 15, 2017 – 11:00 A.M.  
BECKER-HANSEN BUILDING – 700 EAST BROADWAY  
PIERRE, SOUTH DAKOTA**

**MEMBERS PRESENT:** Todd Yeaton, Chair  
Sheldon Cotton, Vice Chair  
Jeff Burket, Member  
Jerry Cope, Member  
Gary Doering, Member  
Harlan Quenzer, Member

**DOT STAFF PRESENT:** Joel Jundt, Jack Dokken, Karla Engle, Bonnie Olson, Lynn Kennison,  
Misty Siedschlaw, and Tessa Wenner

**OTHERS PRESENT  
VIA CONFERENCE CALL:** Jeremy Huggins, Chris Brozik, Steve Muzo

**OTHERS PRESENT:** Dick Huff, Alex Huff, Jeff Cooley, Dustin Buntrock, Heath Haden, Lucy  
Halverson, Mark Cutright, Brian Hammerback, Bart Banks, Erin Heupel,  
Jack Parliament, and Dave Voeltz

Chair Yeaton called the meeting of the South Dakota State Railroad Board meeting to order at 11:00 a.m. Roll call was taken and a quorum was determined.

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Chair Yeaton opened the floor to Board members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Cope disclosed a potential conflict in the consideration of the Presho property listed on the agenda. Cope previously provided a written letter of disclosure, dated June 16, 2016, to the Board requesting a waiver. At the Board's regular meeting held on July 20, 2016, the Board determined the matter underlying the conflict was fair, reasonable, and not contrary to the public interest, but required that Cope disclose the details of any specific contracts or other conflicts of which he becomes aware for the Board's particular consideration. Cope explained that he is employed by Dakota, Mill & Grain, Inc. Cope will abstain from the discussion and vote on the consideration of the Presho property, which concerns Dakota, Mill & Grain, Inc.

A MOTION WAS MADE by Quenzer and seconded by Cotton that the essential terms of the contract or transaction is fair, reasonable, and not contrary to the public interest. All present voted aye by roll call vote, except Cope, who abstained from the Board discussion and vote. The motion carried.

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Chair Yeaton asked for a motion to approve the minutes of both the February 15, 2017, and February 28, 2017, meetings.

A MOTION WAS MADE by Cope and seconded by Burket to approve the February 15, 2017, and February 28, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

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Deputy Secretary Joel Jundt provided the Board with updates on the issues with the Mitchell to Rapid City ("MRC") rail line. A track inspection was conducted on the MRC line on March 14, 2017.

Quenzer attended the track inspection on March 14, 2017, along with Lynn Kennison from the Department of Transportation (the "Department") and a representative from Civil Design, Inc. They looked at 40 miles of line from Presho to 13<sup>th</sup> Street in Chamberlain and discussed their findings. A total of 20 joint pull-aparts were found along this section of rail line. There was discussion in regards to possible causes for the joint pull-aparts. The Department noted this is a normal maintenance issue on all rail lines, especially in colder climates areas. Dakota Southern Railway Company ("DSRC") agreed to investigate and repair this issue. The Board agreed to continue to monitor the situation.

Heath Haden, representative of DSRC, presented to the Board an updated track inspection report. All track deficiency items from the geometry car report had been assigned a date of repair.

No action was taken.

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Jundt informed the Board that the Department was withdrawing its request for a public hearing date for revisions to the railroad guidelines, as the guideline revisions are not yet ready for consideration by the Board.

No action was taken.

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Jundt presented the Board with a table of future rail projects. The Department recommended the Board address the current projects the Board has already committed to and consider reserving funds for emergency situations.

The Board held considerable discussion on this topic.

A MOTION WAS MADE by Quenzer to obligate \$3.9 million for the Sioux Valley bridge upgrade and the proportion of those funds that are to be a loan or a grant would be determined later. The motion failed due to lack of a second.

The Board agreed to table any decisions for future rail projects until the next meeting. D & I Railroad Co., stated it should have a proposal with accurate project estimates to present to the Board at the next board meeting.

No action was taken.

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The Board took a five minute break @ 1:05 p.m. Reconvened @ 1:10 p.m.

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Cope recused himself from the discussion and any potential vote on the consideration of the Presho property.

Bart Banks, General Counsel, and Brian Hammerback, President, representatives from Dakota Mill & Grain, Inc. ("DM&G"), presented the Board with DM&G's revised proposal to purchase property in Presho, South Dakota. Jundt presented the Board with a letter from the Mayor of the city of Presho, South Dakota. Chair Yeaton read the letter into record. The Mayor indicated the city is supportive of the proposed project in concept.

Jundt suggested the Board consider DM&G's proposal based on the following items:

- Allowing DM&G to load and unload from mainline track
- Minimum clearance requirements from mainline
- Allowing DM&G to utilize an existing private railroad crossing for DM&G's detour road
- Processes to be used for any disposal of property
  - Properties for rail use purpose
  - Properties for non-rail use purposes

A MOTION WAS MADE by Quenzer and seconded by Burket to authorize the Department to negotiate an agreement to allow DM&G to use the mainline based on the following conditions:

- 1) allow the operator to have crews onsite to secure and provide safety necessary during the loading and unloading operations;
- 2) a maximum time limit must be set for the road closure of main street;
- 3) DM&G must take all measures necessary to prevent any ballast contamination. If there is ballast contamination, DM&G is responsible for reimbursing the Department or the operator for any costs incurred in handling any contamination; and
- 4) Sidings must be constructed and ready for use within one construction season at the time of notification of track reconstruction going west of Presho, SD.

Quenzer revised this motion, with the consent of the second, to include item 5) as follows:

- 5) DM&G must take all reasonable measures necessary to prevent blocking of all crossings, including access to private property.

All present voted by roll call vote. Three voted aye (Quenzer, Burket, Yeaton), 2 voted nay (Cotton, Doering), and Cope abstained. The motion failed because it was not supported by a majority vote of the Board.

The Board moved on to the discussion of clearance for the Presho project.

A MOTION WAS MADE BY Quenzer and seconded by Burket to: 1) set the clearance on the south side of the mainline as 25 feet of right of way (ROW) from the center line of the mainline, 2) set the clearance on the north side of the mainline as 15 feet from center line of the mainline to center line of the first siding, and 3) allow the Department to negotiate a lease on the south side of the track to allow for truck traffic access to the north side of the existing bins, as long as this truck traffic does not interfere with train traffic or train cars on the track.

All present voted by roll call vote. Three voted aye (Quenzer, Burket, Yeaton), Two voted nay (Cotton, Doering), and Cope abstained. The motion failed.

A MOTION WAS MADE by Quenzer and seconded by Burket to: 1) set the clearance on the south side of the mainline as 25 feet of ROW from the center line of the mainline, 2) set the clearance on the north side of the mainline as 15 feet from center line of the mainline to center line of the first siding, 3) authorize the Department to negotiate and execute a lease on the south side of the track to allow for truck traffic access to the north side of the existing bins, as long as this truck traffic does not interfere with train traffic or train cars on the track, 4) DM&G will be responsible for the cost of all track repairs and replacement caused by truck traffic, and 5) DM&G will be liable for any damage or injury to any person or property resulting from truck traffic.

All present voted by roll call vote. Three voted aye (Quenzer, Burket, Yeaton), Two voted nay (Cotton, Doering), and Cope abstained. The motion failed.

A MOTION WAS MADE by Cotton to appoint a committee consisting of two Board members to determine if this plan meets Federal Railroad Administration (FRA) standards by the next Board meeting. The motion failed due to lack of a second.

A MOTION WAS MADE by Cotton and seconded by Quenzer to: 1) set the clearance on the south side of the mainline as 25 feet of ROW from center line of the mainline, 2) set the clearance on the north side of the mainline as 15 feet from center line of the mainline to center line for the first siding, 3) authorize the Department to negotiate and execute a lease on the south side of the track to allow for truck traffic access to the north side of the existing bins, as long as this truck traffic does not interfere with train traffic or train cars on the track, 4) DM&G will be responsible for the cost of all track repairs and replacement caused by truck traffic, and 5) DM&G will be liable for any damage or injury to any person or property resulting from truck traffic

All present voted aye, except Cope who abstained. The motion carried.

All other business involving the Presho, SD property proposal was postponed for consideration at a subsequent meeting. The Brosts, who are interested in the sale of property in Presho, will have an opportunity to participate in discussions with the Department and DM&G concerning this issue.

Cope returned to the meeting.

Jack Dokken, the Department's Air, Rail, and Transit Program Manager, presented updates for current rail projects.

- Britton line- Dakota, Missouri Valley & Western crews continue to pick up steel and other track material for salvage.
- Rapid City, Pierre and Eastern line – the Department is working to finalize paperwork for the initial documentation needed to be submitted to FRA for the TIGER grant.
- Sioux Valley slide – the Department is working with FRA at the request of Iowa's State Historic Preservation Office to notify other Tribal Nations about the project.
- MRC – 1,078 cars moved in February.

With no other business to come before the Board, the meeting was adjourned at 3:05 p.m.